

CARL PETERSON

IBLA 76-431

Decided June 30, 1976

Appeal from decision of the Prineville, Oregon, District Manager, Bureau of Land Management, rejecting application for renewal of a grazing lease.

Affirmed.

1.     Grazing Leases: Generally--Grazing Leases: Applications --Grazing Leases: Renewal

The regulations do not require that a lessee be given advance notice of nonrenewal of a grazing lease, nor is he entitled to rely upon an asserted assurance that he could have the lease as long as he desired.

2.     Grazing Leases: Generally--Grazing Leases: Applications --Grazing Leases: Renewal

It is proper to reject an application for renewal of a grazing lease where the land applied for is of such character that livestock grazing would be detrimental to other uses of the land such as wildlife and recreational uses.

APPEARANCES: James H. Phelps, Esq., Chinnock & Phelps, Madras, Oregon, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Carl Peterson has appealed from a decision of the Prineville, Oregon, District Office, Bureau of Land Management, dated November 21, 1975, rejecting his application for renewal of a grazing lease. The

expired grazing lease permitted use of 65 AUM's and covered land along the banks of Willow Creek near Madras, Oregon. The District Office determined that the lease area provides important wildlife and fisheries habitat and that the proximity of the area to the town of Madras makes the wildlife and recreational values of the lease area important and worthy of protection. The decision noted that the steepness of the canyon sides caused cattle to forage along the streambank, thus preventing the recovery and growth of willows needed to provide feed and cover for wildlife and fish. The District Office concluded that grazing is detrimental to other uses of the land.

Appellant alleges lack of notice, estoppel, and that grazing does not damage the land for wildlife and fish, but that recreational use would do so.

[1] As to appellant's argument that he had not received proper notice of the loss of his grazing rights, the regulations do not provide for advance notice of nonrenewal. The lease itself expressly states when the grazing rights terminate. While notice is not required, it is a helpful courtesy. Here, the case record establishes that appellant's lessee was notified by letter of May 8, 1975, that BLM was considering designating the area for wildlife. Appellant alleges that he was assured that he could have the grazing lease as long as he wished, but assuming, arguendo, that this allegation is true, appellant should have been aware that no officer or employee could grant appellant a permanent lease to the public land. 43 CFR 1810.3.

[2] Appellant contends that similar steep land in the canyon is leased, that grazing use is compatible with wildlife and recreational use and that the land has improved during his use, but he admits that the land has improved because he has never used his full allotment and did not use it at all for two seasons. Despite the fact that he did not use his full allotment, he states that the grazing lease is necessary for the economic viability of his farm and that the importance of the grazing lease in relation to the adjacent lands outweighs the importance of wildlife and recreational values. Appellant further alleges that recreational use and resulting litter, polluting and vandalism would be detrimental to the fragile ecology, but he has not shown any particular recreational plans that would unreasonably affect the use of the land for other purposes.

Departmental regulation 43 CFR 4125.1-1(c)(2) requires in part as follows:

The Authorized Officer shall reject the application if the land applied for \* \*

\* (v) is of such character that livestock grazing would be detrimental to the resources or other uses of the land. [Emphasis added.]

The case record contains expressions of public interest in the dedication of the Willow Creek area to recreational use. The record further shows that grazing is detrimental to the willows necessary to provide cooler water temperatures and feed and cover for wildlife and fish. The decision states that all grazing use in Willow Creek should be discontinued. There has been no showing that the rejection of appellant's application is arbitrary or capricious, and the record provides a rational basis for the decision of the District Office. Under section 4125.1-1(c)(2), the rejection of the application was appropriate. Claudio Ramirez, 14 IBLA 125 (1973).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Joseph W. Goss

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Administrative Judge

We concur:

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Anne Poindexter Lewis  
Administrative Judge

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Edward W. Stuebing  
Administrative Judge

